



PUBLIC NOTICE

Federal Communications Commission
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WIRELINE COMPETITION BUREAU SEEKS COMMENT ON BUSINESS BROADBAND MARKETPLACE

WC Docket No. 10-188

Comments Date: October 15, 2010

Reply Comments Date: November 4, 2010

Broadband services are vital inputs for small and medium businesses and enterprise users, including mobile carriers. The business broadband marketplace includes both retail and wholesale offerings, and requires policies that enable – as appropriate – competitive retail markets, incentives for investments in facilities, and access where competitive infrastructure cannot be economically deployed. Unfortunately, as the National Broadband Plan noted, the Commission currently lacks a cohesive, comprehensive analytic framework for promoting competition in business broadband markets.¹ Differences in the technology used to provide a particular service may cause that service to be subject to significantly different policies, which may undermine competition policy objectives.² In this Public Notice, we take a first step to address this issue by seeking to ensure that the Commission has a thorough understanding of the business broadband marketplace.³ To that end, we seek comment from business broadband providers, business broadband customers, and any other interested parties regarding the current state of, and trends and issues in, business broadband markets.

We know that businesses rely on a wide range of broadband services today and that providers use a variety of transmission technologies – consisting of various transmission media and communication protocols – to provision these services. For example, business broadband customers frequently purchase high-capacity transmission services, which can include Frame Relay, Asynchronous Transfer Mode (ATM),⁴ Ethernet,⁵ and various forms of Private Line and Virtual Private Line services.⁶ We recognize

¹ Omnibus Broadband Initiative, Connecting America: The National Broadband Plan, GN Docket No. 09-51, at 47-48 (2010) (National Broadband Plan).

² *Id.* at 47.

³ This is consistent with the recommendations of the National Broadband Plan that the Commission review its current competition policies regarding business broadband services. *See id.* at 48. The National Broadband Plan also identified data roaming as a specific area for Commission inquiry, *id.* at 48-49, which the Commission currently is considering in a separate proceeding, *see Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, WT Docket No. 05-265, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 25 FCC Rcd 4181 (2010).

⁴ ATM offers high capacity and reliability by combining some circuit-switched functionality with packet-switching and is used to deliver data that requires a very low rate of transmission delays. *See Petition of AT&T Inc. for*

that the mix of business broadband services is evolving, for example, as customers replace Frame Relay with IP-based transmission services.⁷ In addition, although the bandwidth capacities primarily available to business customers have historically been based on the architecture of the legacy circuit-switched telephone network (e.g., 1.5 Mbps DS1 circuits corresponding to 24 voice channels, 45 Mbps DS3 circuits corresponding to 672 voice channels, and so forth), providers increasingly are able to offer customers greater flexibility in how much bandwidth they purchase as part of a business broadband service (e.g., 10 Mbps, 100 Mbps, and 1 Gbps, or variable bandwidth offerings). We also know that optical fiber facilities are increasingly being used for higher-capacity offerings,⁸ but that legacy copper facilities (with or without higher-layer communication protocols), co-axial cable facilities, and wireless spectrum remain highly desirable transmission media that are used in a wide variety of circumstances.

The Commission has also consistently recognized that business customers who are buying specialized, high-capacity services demand – and are often willing to pay a premium for – flexible and guaranteed quality offerings, and that as a result providers treat them differently from residential customers in the products they offer, the way they market and sell these products, and the prices they charge.⁹

Recently, the Commission noted that “[c]ontinuous private sector investment in wired and wireless networks and technologies and competition among providers are critical to ensure vitality and innovation in the broadband ecosystem and to encourage new products and services that benefit American consumers and businesses of every size.”¹⁰ We know that the nature and extent of competition for business broadband services can depend upon providers’ ability to deploy appropriate facilities or, where that is not feasible, obtain those inputs from other providers that have networks in place.¹¹

We seek to ensure that our understanding of broadband business markets, including current trends in and any issues with those markets, is thorough. Our goal is to ensure that businesses realize the maximum benefits of broadband services and competition. Accordingly, we seek comment to identify the

Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services; Petition of BellSouth Corporation for Forbearance Under Section 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services, WC Docket No. 06-125, Memorandum Opinion and Order, 22 FCC Rcd 18705, 18715-16, para. 18 (2007) (*AT&T Enterprise Forbearance Order*).

⁵ Ethernet services provide high-speed, point-to-point transmission using Ethernet protocol technology. *Id.*

⁶ *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5697-98, para. 63 (2007) (*AT&T/BellSouth Merger Order*).

⁷ *Id.* at 5698-99, para. 65.

⁸ Connectivity using optical fiber commonly provides speeds ranging from OC-3 (155 Mbps) to OC-192 (10 Gbps) or higher. *AT&T Enterprise Forbearance Order*, 22 FCC Rcd at 18716, para 19.

⁹ *Id.* at 18720, para. 24; *see also AT&T/BellSouth Merger Order*, 22 FCC Rcd at 5699, para. 66. We also know that there are distinctions between small, mid-sized, and large enterprise customers. Specifically, unlike small enterprise customers, larger businesses often contract for more complex services, e.g., virtual private networks. *Id.*

¹⁰ *Joint Statement on Broadband*, GN Docket No. 10-66, 25 FCC Rcd 3420, para. 3 (2010).

¹¹ As the National Broadband Plan stated, “[b]ecause of the economies of scale, scope and density that characterize telecommunications networks . . . it is not economically or practically feasible for competitors to build facilities in all geographic areas.” National Broadband Plan at 47.

universe of business broadband service inputs, where they are available, and how they are used. Specifically, we seek comment on the following questions:

- What transmission services, technologies, or types of facilities are used in the business broadband marketplace, including those discussed in this Notice and any others that are relevant to a full understanding of the marketplace? What is the overall size of the business broadband marketplace today, in terms of revenues, demand, or other criteria?
- Of the various possible combinations of services, technologies, and facilities, how prevalent are particular combinations in this marketplace today, in terms of revenues, demand, or other criteria? What explains this variation? For example, do variations arise from differences among customer types; differences in service features, bandwidth, or other technical characteristics; differences in price; or other factors?
- What are the trends in the business broadband marketplace with respect to each of the categories or criteria identified in response to the prior questions?
 - Which combinations of services, technologies, and facilities are increasing or declining in prevalence or importance, and why? For example, are certain combinations more appropriate, available, or affordable for certain types of providers (*e.g.*, mobile)?
 - What are the trends in pricing and technical characteristics for particular services, technologies, and facilities?
 - What is the likely impact of non-traditional marketplace participants and technologies, such as cable companies and wireless platforms?
 - What is the effect of the growth of new non-carrier wholesale customers, *e.g.*, consumer electronics companies seeking to embed broadband in devices such as e-books or tablets, energy companies seeking to offer retail smart grid products, and so forth? Are the needs of these customers being adequately met?

Finally, we seek comment on any other facts or issues that would aid in our understanding of the business broadband marketplace.

We note that the Commission is engaged in a parallel process to review the related topic of special access policies.¹² A comprehensive review, however, requires an understanding of all wholesale inputs, including the variety of wholesale inputs not governed by the framework under review in that proceeding.

Pursuant to sections 1.415 and 1.419 of the Commission's rules,¹³ parties may file comments in response to this notice no later than **October 15, 2010**, with the Secretary, FCC, 445 12th Street, SW, Washington, DC 20554. Reply comments may be filed with the Secretary, FCC, no later than **November 4, 2010**. All pleadings are to reference **WC Docket No. 10-188**. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS); (2) the Federal Government's eRulemaking Portal; or (3) by filing paper copies.¹⁴

¹² See *Parties Asked to Comment on Analytical Framework Necessary to Resolve Issues in the Special Access NPRM*, WC Docket No. 05-25, RM 10593, Public Notice, 23 FCC Rcd 13638 (2009) (seeking comment on an appropriate framework for examining various issues raised in the *Special Access NPRM*).

¹³ 47 C.F.R. §§ 1.415, 1.419.

¹⁴ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://efilings.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the websites for submitting comments. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). **Parties are strongly encouraged to file comments electronically using the Commission's ECFS.**
 - The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Parties should also send a copy of their filings to Tim Stelzig and Heather Hendrickson, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Rooms 5-C115 and 5-225, 445 12th Street, SW, Washington, DC 20554, or by e-mail to tim.stelzig@fcc.gov and heather.hendrickson@fcc.gov. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 488-5300 or (800) 378-3160, or via e-mail to fcc@bcpiweb.com.

Documents in **WC Docket No. 10-188** are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, website www.bcpiweb.com, telephone (202) 488-5300 or (800) 378-3160, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com. These documents may also be viewed on the Commission's website at <http://www.fcc.gov>.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format) or to request reasonable accommodations for filing

comments (accessible format documents, sign language interpreters, CART, etc.), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁵ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one-or two-sentence description of the views and arguments presented generally is required.¹⁶ Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission’s rules.¹⁷

For further information, contact heather.hendrickson@fcc.gov.

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¹⁵ 47 C.F.R. § 1.1200 *et seq.*

¹⁶ *See* 47 C.F.R. § 1.1206(b)(2).

¹⁷ 47 C.F.R. § 1.1206(b).